

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

JESUS GARCIA HERRERA,

Petitioner,

vs.

CIVIL ACTION NO.: CV513-031

T. JOHNS, Warden, and UNITED
STATES OF AMERICA BUREAU
OF PRISONS,

Respondents.

ORDER

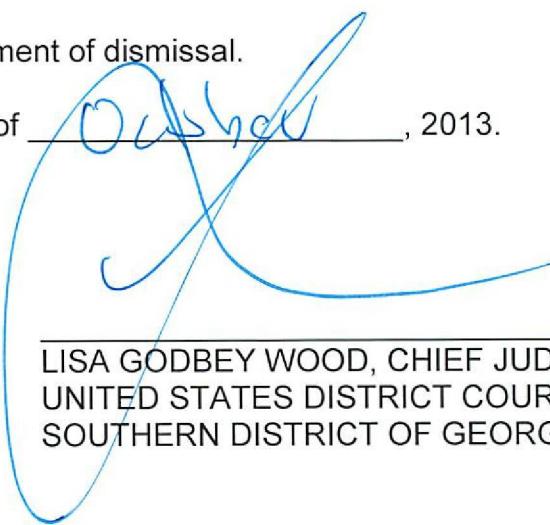
After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Petitioner Jesus Herrera ("Herrera") filed Objections. In his Objections, Herrera states that he is a permanent resident of the United States, and his immigration status will not be changed until he appears before an immigration judge. Herrera contends that the Bureau of Prisons ("BOP") violated his constitutional rights.

As the Magistrate Judge noted, the BOP has broad discretion to choose where an inmate will be incarcerated, and in using that broad discretion, the BOP determined that Herrera will not be transferred for nearer release because he has an Immigration and Customs Enforcement ("ICE") detainer lodged against him. The BOP relied on Program Statement 5100.08 in making the determination that Herrera will not be

transferred for nearer release. Herrera has not shown that the BOP abused its discretion. Additionally, Herrera has not shown that he has been discriminated against based on a constitutionally protected status or that any similarly situated inmates were treated differently than he was.

Herrera's Objections are **overruled**. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Herrera's petitioner for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DENIED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 7 day of October, 2013.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA